

Customer No.: 31561
Application No.: 10/065,750
Docket No.: 8711-US-PA

REMARKS

Present Status of the Application

Applicants appreciate the Examiner's indication of allowance of claims 13-21.

Claims 1-6 and 8-12 have been canceled without prejudice or disclaimer and claims 17-18 have amended to a correct typographical error, and claims 23-32 have been newly added, to more explicitly describe the claimed invention.

More specifically, the subject matters of claims 1 and 22 have been integrated into the newly added proposed independent claim 23, and the remaining newly added proposed claims 24-32, which depend from the newly added proposed independent claim 23, include the subject matters of claims 2-12. Therefore, it is believed that no new matter adds by way of amendments to claims or otherwise to the application.

It is noted that no prior art has been applied by the Examiner to Claim 22, which was previously added at the time of Requesting Continued Examination filed on May 12, 2005. Claim 22, which depends from claim 1, specifies that the thickness of the protective layer is less than 50 angstroms. In the prior Final Office Action dated January 12, 2005, the Examiner stated that Kluth does not explicitly disclose thickness of the protective (mask) layer of 50 angstroms. However, the Examiner is of opinion that thickness of the protective layer being within the range of 50 angstroms is obvious because discovering optimum and workable range involves routine skill in the art and it is noted that Applicants do not disclose the criticality in the ranges claimed.

Applicants respectfully disagree and would like to point out that it is well appreciated by those skilled in the art that the advantages of forming a thin protective layer, wherein not only the cost in terms of using reduced amount of materials (and

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etchants) is reduced but also a better process window for photolithography process may be obtained for achieving an accurate pattern transfer, reducing high aspect ratio during etching process and the like, and also increasing the processing throughput.

Applicants would like to point out that *the mere fact that the prior art could be modified would not have made modification obvious unless the prior art suggested the desirability of the modification, and modification unwarranted by the disclosure of a reference is improper*. Applicants respectfully disagree with the presumption of the Examiner with regard to the thickness of the mask layer of Kluth being 50 Angstroms is obvious and considered possible during the routine course of discovering optimum and workable range involving routine skill in the art because Kluth expressly teaches that the thickness of the mask layer is critical for his invention and must be thick enough for withstanding the doping of the p and n dopants during the ion implantation steps. Kluth substantially teaches that the preferred thickness range is about 500-5000 angstroms. Therefore, one skilled in the art would not be motivated to reduce the thickness of the mask layer (36), and definitely not to reduce the thickness of the mask layer (36) to less than 50 angstroms since Kluth expressly teaches the preferred thickness range is between 500-5000 angstroms, and more preferred range is 1000-2500 angstroms (please see col. 5, lines 53-55). Any such modification of Kluth would frustrate its intended purpose. As such, Kluth's mask layer (36) is complete and functional by itself, so there would be no reason to reduce the thickness beyond the preferred thickness range of 500-5000 angstroms as taught by Kluth, and certainly not to modify thickness of the mask layer (36) to less than 50 angstroms in the manner suggested only by the Examiner, which is unwarranted by Kluth,

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and any such modification would require hindsight reconstruction, made possible only by the disclosure of the present invention. Accordingly, Applicants respectfully submit that claim 22 patently define over Kluth and therefore should be allowed. Reconsideration is respectfully requested.

Furthermore, because the newly added proposed independent claim 23, among other things, also recites "a thickness of the protective layer is smaller than 50Å", and therefore the newly added proposed independent claim 23 is also allowable over the prior arts of record for at least the same reasons as discussed above.

Newly added proposed Claims 24-32, which directly or indirectly depend from the newly added proposed independent claim 23, are also patentable over prior arts of record at least because of their dependency from an allowable base claim.

For at least the following reasons, Applicant respectfully submits that claims 13-32 are in proper condition for allowance. Reconsideration is respectfully requested.

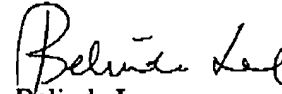
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CONCLUSION

For at least the foregoing reasons, it is believed that all pending claims 13-32 are in proper condition for allowance. If the Examiner believes that a conference would be of value in expediting the prosecution of this application, he is cordially invited to telephone the undersigned counsel to arrange for such a conference.

Date : August 30, 2005

Respectfully submitted,


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